

ENTERED

May 02, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

LUIS MEDEL-GUADALUPE

§

Petitioner

§

VS.

§

UNITED STATES OF AMERICA

§

CIVIL ACTION NO. 1:22-CV-038

ORDER

In March 2022, Plaintiff Luis Medel-Guadalupe filed a Motion to Vacate, Set Aside, or Correct his Sentence Pursuant to 28 U.S.C. § 2255, challenging his conviction for harboring illegal aliens on the grounds that his trial counsel was ineffective for advising him to plead guilty to a duplicitous indictment. (Petition, Doc. 1, 4)

A United States Magistrate Judge recommends that the Petition be denied as meritless. (R&R, Doc. 4, 8) Medel objected to the Report and Recommendation, reiterating the same arguments he urged in his Section 2255 petition. (Objections, Doc. 8) The Court reviews the portions of the Report and Recommendation to which Medel objects *de novo* and all other portions for plain error. *See FED. R. CIV. P. 72(b)(3).*

Based on the allegations within the Petition and the applicable law, the Court concludes that the Report and Recommendation correctly applies the law to the alleged facts. The Fifth Circuit previously rejected Medel's arguments on direct appeal and this Court "may not consider an issue disposed of in his previous appeal at the § 2255 stage." *United States v. Goudeau*, 512 F. App'x 390, 393 (5th Cir. 2013).

As a result, the Court **OVERRULES** Medel's objections and **ADOPTS** the Report and Recommendation (Doc. 4). It is:

ORDERED that Plaintiff Luis Medel-Guadalupe's Motion to Vacate, Set Aside, or Correct his Sentence Pursuant to 28 U.S.C. § 2255 (Doc. 1) is **DENIED** as meritless.

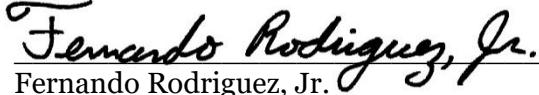
In addition, the Court finds that no outstanding issue would be debatable among jurists of

reason, and that Medel fails to make a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Accordingly, the Court **DENIES** a Certificate of Appealability.

This Order is a final and appealable judgment.

The Clerk of Court is directed to close this matter.

Signed on May 2, 2022.


Fernando Rodriguez, Jr.
United States District Judge